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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAUL BENSI, BART FLORENCE, JERRY
KALMAR, and LYLE SETTER, in their
capacities as Trustees of the STATIONARY
ENGINEERS LOCAL 39 PENSION TRUST
FUND,

Plaintiffs,

v.

EDEN MEDICAL CENTER, a California
Corporation

Defendant.

No. C 11-4008 JSW

**STIPULATED REQUEST TO
CONTINUE ADR, DISCOVERY AND
DISPOSITIVE MOTION DEADLINES;
~~PROPOSED~~ ORDER**

Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure and Civil Local Rules 7-12 and 16-2, Plaintiffs and Defendant, by and through the undersigned counsel, respectfully request that the ADR deadlines, discovery deadlines, dispositive motion hearing date and related deadlines be continued for sixty (60) days to allow the parties additional time to complete the

1 payroll compliance testing audit (“Audit”) that is the subject of this litigation and to discuss a
 2 possible resolution of this action without the necessity of further litigation, time and expense.

3 As the Court may be aware, the principal issue in this case is the Audit of Eden Medical
 4 Center’s (“Defendant” or “hospital”) books and records to determine whether Defendant had
 5 made all required contributions to the Stationary Engineers Local 39 Pension Trust Fund
 6 (“Plaintiffs” or “Trust Fund”). To help facilitate the completion of the Audit, the parties agreed
 7 that Defendant would provide the Trust Fund’s auditors, Lindquist LLP, with invoices received
 8 from outside contractors who performed maintenance or light construction-type work at the
 9 hospital between January 1, 2006 and March 31, 2010. Because the documents were old and
 10 stored off site, on June 7, 2012, the parties sought and received a continuance of the ADR,
 11 discovery and dispositive motion deadlines, to allow the hospital time to retrieve the necessary
 12 invoices from storage. The hospital retrieved the documents and provided them to Plaintiffs’
 13 counsel on August 16, 2012. Plaintiffs’ counsel subsequently forwarded the documents to the
 14 Trust Fund’s auditors to be reviewed as part of the Audit.

15 The auditors completed a draft of the Audit on September 4, 2012, which was provided to
 16 Defendant’s counsel, and the mediator, in preparation for the mediation that had been scheduled
 17 for September 5, 2012 before Mediator Michael Sobel. Defendant is in the process of reviewing
 18 the Audit, but will not complete their review of the Audit until after the current ADR deadline of
 19 September 6, 2012. The parties agreed to continue the September 5th mediation because
 20 mediation would be more productive if Defendant completed their review of the Audit prior to the
 21 mediation taking place.

22 Although the parties have been working diligently towards a resolution of this matter, they
 23 need additional time so Defendant can complete their review of the Audit, and the parties can
 24 continue their discussions of a potential resolution of this matter. Consequently, the parties were
 25 not be able to complete mediation before the current ADR deadline of September 6, 2012.
 26 Further, although the parties have engaged in informal discovery, if the parties need additional
 27 documents following Defendant’s review of the Audit, they will not be able to propound
 28 discovery requests prior to the close of fact discovery on October 15, 2012. Accordingly, the

parties are requesting a continuance of the ADR deadlines, discovery deadlines, and dispositive motion hearing date and related deadlines to allow the parties additional time to complete the Audit and discuss a resolution of this matter. As set forth above, on June 7, 2012, the parties requested an extension of the deadlines set forth in the Court's Scheduling Order, which the Court granted on July 9, 2012.

In light of the foregoing, the parties respectfully request that the Court modify its Scheduling Order as follows:

1. ADR deadline: December 5, 2012;
2. Close of fact discovery: January 13, 2013;
3. Last day for Expert Disclosure: January 27, 2013;
4. Close of Expert Discovery: February 11, 2013;
5. Opening motion for summary judgment to be filed: February 21, 2013;
6. Opposition and cross-motion due by: March 7, 2013;
7. Reply and opposition to the cross-motion due by: March 21, 2013;
8. Reply in support of the cross-motion due by: March 28, 2013;
9. Hearing on dispositive motions (if any): April 26, 2013 at 9:00 a.m.

Dated: September 18, 2012

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/ Linda Baldwin Jones
LINDA BALDWIN JONES
Attorneys for Plaintiffs

Dated: September 18, 2012

WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP

By: /s/ Donald P. Sullivan
DONALD P. SULLIVAN
Attorneys for Defendant

[PROPOSED] ORDER

FOR GOOD CAUSE SHOWING, the Court orders that the case scheduling order shall be modified as follows:

1. ADR deadline: December 5, 2012;
2. Close of fact discovery: January 13, 2013;
3. Last day for Expert Disclosure: January 27, 2013;
4. Close of Expert Discovery: February 11, 2013;
5. Opening motion for summary judgment to be filed: February 21, 2013;
6. Opposition and cross-motion due by: March 7, 2013;
7. Reply and opposition to the cross-motion due by: March 21, 2013;
8. Reply in support of the cross-motion due by: March 28, 2013;
9. Hearing on dispositive motions (if any): April 26, 2013 at 9:00 a.m.

All other aspects of the Court's scheduling order not specifically modified above shall remain in full force and effect. In addition the Court orders:

Dated: September 19, 2012


THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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